G. R. S. 59]

GENERAL AND REVENUE SECRETARIAT.

1907

(Courts)

File No. 149 P04

Serial Nos. 1

Papers Filed.

Month Jan 07

SUBJECT.

Investing the Chief Court with power to entertain higher classes of appeals, civil & criminal, thro out the State above a fixed limit

PREVIOUS REFERENCES.	LATER REFERENCES.

G. R. S. 11] 1904. 05

GENERAL AND REVENUE SECRETARIAT.

Courts)

NOTES.

File No. 149

FILE HEADING.

Inverting the Chief Court with powers to entertain higher classes of appeals, Civil & Criminal, throughout the State above a fixed limit.

From The Registrar of the Chief Court

No. 2919 / 177 Dated the 26th Nov 1904 Received the 28th Nov 1904.

Diary No. J 1095 Enclos. Three Spare Copies. - Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards a memorandum containing the opinion of the Judges of the Chief Court on the proposal to make the higher classes of appeals, both civil & criminal, throughout the State, lie direct to the Chief Court.

NOTES AND ORDERS.

The proposals of the Chief Court are that all Civil appeals of the value of Rs 250 & upwards & all criminal appeals against sentences of imprisonment of one year & upwards & of fines of Rs 500 & upwards or both may be declared

NOTES -- First sheet.

MGGPB—25,000—18-8-04

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to lie direct to the Chief Court.

The result of the proposals, it is stated, will be that the work of the Chief Court will be approximately.

Regular Civil appeals — 236.
Second do — 170.
Additional second — 80.
Criminal appeals — 155
Writs to be added — 201
641.

2. To this have to be added the miscellaneous work and applications for revision, which, it is stated, are likely to increase if the Small Cause Courts Regulation is passed.

4. It is also stated that the proposed arrangement will add about 150 civil appeals & 140 criminal appeal to the District Judge of Bangalore. To relieve the latter, the Chief Court proposes either the establishment of an Additional District Judge's Court at Bangalore or to reserve to the Chief Court the power to call up at discretion, all civil appeals, in value below Rs. 25,000 from the District Judges' courts, such cases being disposed of by a single judge of the Chief Court, a second appeal being made to lie to the Division Court and also any Criminal appeal, the same being disposed of by a single judge, power of revision of his decision

The judge evidently prefer the first of these alternatives.

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being reserved for Bench of the Chief 2 Judges: ~~He adds~~ The Chief Court adds that in the Civil & criminal Cases powers might be reserved to the single Judge to refer the hearing to a Bench. The latter proposal will relieve the Courts when necessary.

Subject for advo

2/12/04 2-12-04

4 The proposals made by the Chief Court involve several changes in the law in force.

Thus, in s. 13 of the Civil Courts Regn (I of 1883), relating to appeals from Sub Judges the words "does not exceed Rs 3 000" must be replaced by "is below Rs 250."

S. 14, relating to appeals from Munsiffs must be amended as follows: — To para 1 add. "except when the amt or value of the subject-matter of the original suit or proceeding ~~is Rs~~ is Rs 250 or above in which case the appeal will lie to the Chief Court." To proviso 1, ~~add~~ for "any such appeal" substitute "any appeal lying to it;"

MGCPB—20.000—1-11-04.

and in proviso 2, after the words "in such notification," insert the words "which would otherwise lie to the District Court."

5 It is less easy to say what amendments are necessary in the Chief Court Regulation (I of 1884). In order to make civil appeals of or above Rs 250 in value lie to the Chief Court, the amendments indicated in the previous para are sufficient. Criminal appeals from sentences of imprisonment of 1 year and upwards or of fine of Rs 500 & upwards are necessarily appeals from Courts higher in jurisdiction than that of a Second class Magte; & such appeals should lie, ~~under S. 408~~, When the Court is not the Sessions Court, to the Court of Session, & in other cases to the Chief Court (Ss. 408 & 410 of the Criml Pro: Code). I do not think, however, it is necessary to interfere with S. 408 of the Code, since Section 14 of the Chief Court Regn gives us power to confer on the Chief Court the jurisdiction to hear & decide all such appeals as are

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allowed by law to a Court of Session a form of words which may be taken to include ~~appeals~~ a specified class of appeals here, appeals from sentences of the kind described above.

6 If the Chief Court is to have power to call up any civil ~~appeal~~ or criminal appeal from the file of a subordinate appellate Court ——— a power which will not be necessary if the Govt appoint an Addl. Sub Judge for the Bangalore division, ———, then a separate section to that effect must be inserted between ss. 14 & 15. Provision for disposal of such appeals by a single Judge must be made in ~~a section~~ another section on lines similar to those of s. 16 A, and for reference by a single Judge to a Bench by a clause similar to the proviso to s. 16 B.

7 Till, however, it be definitely

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decided what changes are to be made in the existing system of appeals, it is found difficult to prepare a draft amending Regn, as the alterations in the law required are so many & far-reaching. ~~8~~ I may add that, when making the required amendments, the opportunity would be a suitable one for replacing the Civil Court & Chief Court Regns, which were passed over twenty years ago, & have since been several times amended, by a fresh consolidating Regulation incorporating ~~any~~ the provisions of both with improvements in wording & arrangement.

Mr Chandrasekhara
6.12.04

Sec 4

9 The above note is full submitted to the Diwan Saheb for orders of the 1st Councillor

7.12.1904

1185
7-12-04.

NOTE—Contn. sheet.

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7

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In my humble opinion, the best I can would be to let well alone - The jurisdiction of our Civil and Criminal Courts is much the same as that of corresponding Courts in British India - The radical changes now proposed seem undesirable - They amount to what as at present advised I regard as a retrograde measure. If there is a conviction of work anywhere, the remedy lies in some other direction than that indicated by the present recommendation seems to involve a want of confidence in our subordinate Courts & in further likely to lead to public inconvenience.

& the British Judicial System and our judicial system is modelled

P.T.O.

NOTE—Contn. sheet.

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I have reason to believe that Public opinion is strongly opposed to the proposed reclamations - with all deference therefore to the Chief Court, I beg to recommend that the matter be dropped -

Q.

8.12.1904 8/12/1904.

Mr. Mrs

12 33 Mr. Mrs Engineer

3299/9.12 dc for the present the steps in discussion at the present Durbara meeting. My present recommendation is to agree with the Chief Commissioner

10.XII.04 Mrs

To Branch III

6 12.12.1904

Note to bring up a few days before the Durbara meeting

13-12-04

The file should [illegible]

Mr 18/8/05 18/8/05 Secy Mr 18/8/05

to be brought up at the next Representative Assembly

20/9/1905

Submitted to Secy.

Mr 1/10/06

Rest in camp on 13/10/06 T.VT. 13/10/06

NOTE—Contn. sheet.

MGCPB—20,000—1-11-04.

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15 I am sorry the Office overlooked the direction to bring this to my notice at the time of the Representative Assembly sittings. I am taking separate notice of the omission.

16 In the meantime it is necessary to decide whether the proposals made by the Chief Court in 1902 need further consideration now. They were disapproved of both by the late Dist-Counsellor and the late Dewan; and there is little doubt, as observed by the former, that public opinion would be strongly opposed to any such innovation as that proposed by the Chief Court. These proposals, moreover, I believe, have been virtually superseded by the later ones which the present Judges have made to the Retrenchment Committee in regard to limiting or abolishing the right of second appeal on questions of fact and ~~law~~ in regard to the jurisdiction of Courts. ~~It is essential that the substitution~~ At any rate, they would require considerable

A time-saving policy

GPB—50,000—23 10-05

G.R.S.[illegible]

General and Revenue Secretariat.

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session at the present day, when the Chief Court are about to take upon themselves the original Civil and Criminal work of the whole of the Bengalee Division. In these circs., the pending reference may either be shelved or the Chief Court may be asked, if they wish it to be considered in connection with the amendments of the Civil Procedure Code & the Civil Courts Regln. that are being investigated in order to give effect to the recent proposals of the Chief Court & the Retrenchment Committee.

I do not think so 18/V

27/10/05

I agree with the Secy and am inclined to think that the subject may now be dropped and the papers filed.

27.10

1255 27-10-05

3247 30/10/05

4/11/05

Mr. 6/11/05

The Govt concurs

B.O. 23/11/05

NOTE—Contn. sheet

GPB—50,000—23.10.05

Ch 149-04/5 Bangalore 1095

No. 2919/177 Encl: 3 & one file — Ch 149-04/5 Bangalore 1095

26th November 1904

From

V. A. Rajaratna Mudaliar, Esqr.,
Registrar, Chief Court of Mysore

To

B. K. Venkata Varadiengar, Esqr.,
Secretary to Government,
General and Revenue Departments.

Sir,

As desired in your D. O. letter dated 3d March 1904 to the late Chief Judge, I am directed to forward the enclosed memorandum containing the opinion of the Judges on the proposal to make the higher classes of appeals lie direct to the Chief Court.

The collection of papers received with your D. O. dated 18th May last

Memorandum

All appeals (civil) of the value of Rs: 250/- and upwards to lie direct to the Chief Court.

All Criminal appeals against Sentences of imprisonment of one year and upwards and of fine 500/- and upwards or both

2. The result of the proposals will be that the work of the Chief Court will approximately be per annum.

Regular Civil appeals	236
Second do	170
Additional Second	80
Criminal appeals	55
	541

Please see statement appended.

In addition, there will be applications for revision and miscellaneous work as usual.

Application

Applications for revision of Small Cause Courts are, however, likely to increase, if the proposed Small Cause Court Regulation as recommended by this Court, is passed. In our opinion, the Chief Court will have sufficient work to occupy it.

3. The result, however, will be to add about 150 Civil appeals to the file of the District Judge of Bangalore and some 140 appeals from 1st class Magistrates to his file as Sessions Judge. We do not think that the District Judge will be able to dispose of the work, which the proposed changes will add to his existing work without help.

4 If the Government will pro-vide an additional Subordinate Judge to help the District Judge, with appellate Civil work we think the proposed changes will be practicable

5 If the Government find themselves unable to sanction an additional Subordinate Judge for the Bangalore District, we would suggest that in all Civil appeals in value below 250 Rs. this Court should have a general power at discretion to call appeals up from District Judges' Courts, and to dispose of them by the judgment of a Judge of this Court, sitting alone a second appeal lying to the

other

other two Judges. This Court might have a similar power to call up any Criminal appeal and dispose of it by the judgment of a Judge of the Court, Sitting alone, power of revision of his decision being reserved to a Bench of the other two Judges. In both Civil and Criminal cases, power might be reserved to such Judge sitting alone to refer the hearing to a Bench. These provisions, if approved would enable us to give relief to the Bangalore Courts at present and to other Courts when necessary.

Yrs

Statement showing the numbers of Criminal appeals against sentences of Imprisonment of one year and above and of fine of Rs. 500/- and above or both instituted in the Provinces of Mysore for five years ending 30th June 1906.

Year	Criminal appeals against sentences of: One years imprisonment or fine of Rs: 500/- or more or both? — Chief Court	Courts in the Division of: Bangalore	Mysore	Shimoga	Total	Criminal appeals against sentences of: More than one years imprisonment or fine of Rs: 500/- or more or both? — Chief Court	Courts in the Division of: Bangalore	Mysore	Shimoga	Total
1899–1900	24	"	2	12	38	91	"	12	4	107
1900–1901	28	"	12	8	48	109	"	2	3	116
1901–1902	42	"	5	9	56	97	"	6	12	115
1902–1903	29	"	20	7	56	68	"	7	4	79
1903–1904	31	"	12	10	53	88	"	10	14	112
Total	154	"	51	46	251	453	"	37	37	527
Average in a year					50					105

Remarks

Abstract

Criminal appeals against sentences of	Total for 5 years	Average per year
One years imprisonment or fine of Rs: 500 or more or both	251	50
More than 1 years imprisonment or fine of Rs: 500 or more or both	527	105
Total	778	155
Average number of Criminal appeals would be		155

Registrar

Statement showing the number of Civil appeals of the value of Rs. 250/- and above, instituted in the Province of Mysore for five years ending 30th June 1904.

Years	Appeals of the value of Rs. 250				Exceeding Rs. 250 but below Rs. 300/-				Rs. 300/-				Exceeding Rs. 300/- but below Rs. 500/-				Rs. 500/-				Exceeding Rs. 500				Remarks
	In the Chief Court	In the Courts in the Division of Bangalore	Mysore	Shimoga	Total	In the Chief Court	In the Courts in the Division of Bangalore	Mysore	Shimoga	Total	In the Chief Court	In the Courts in the Division of Bangalore	Mysore	Shimoga	Total	In the Chief Court	In the Courts in the Division of Bangalore	Mysore	Shimoga	Total	In the Chief Court	In the Courts in the Division of Bangalore	Mysore	Shimoga	Total	
1899-00	1	3	4	1	9	10	5	6	10	31	1	..	..	1	2	28	..	12	21	61	..	..	1	2	3	46	..	14	27	87	
1900-01	..	4	1	..	5	6	10	2	4	22	2	..	1	1	5	10	2	22	27	61	2	..	2	1	5	38	..	83	57	122	
1901-02	..	1	2	..	3	6	8	9	5	28	2	4	3	..	9	32	..	13	14	59	1	..	1	2	4	40	..	24	16	80	
1902-03	4	2	2	..	8	-	10	6	19	35	2	..	1	2	5	35	7	22	29	93	2	..	2	4	8	58	2	31	46	137	
1903-04.	..	2	4	1	7	12	10	22	9	53	4	2	4	..	10	26	19	34	26	105	..	1	2	1	4	57	3	41	24	119	
Total	5	12	13	2	32	34	43	45	47	169	11	7	9	4	31	131	28	103	117	379	5	1	8	10	24	233	5	143	144	545	
Average number in a year					6					34					6					76					5					109	

Average number of Regular appeals of the value of Rs. 250/- & above 236
Average number of Civil appeals - - - - - - - - - 170 + appeals
from Distt. Judge Bangalore Division.

Registrar